

SENATE BILL

No. 2

Introduced by Senator Calderon

November 24, 2009

An act to add Section 7283.52 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 2, as introduced, Calderon. Transient occupancy taxes: assessment and collection.

Existing law authorizes the legislative body of a city or county to impose an excise tax for the privilege of occupying a room or other living space in a hotel, inn, tourist home or house, motel, or other lodging, as provided.

The California Constitution prohibits injunctive or other relief in the case of collection of any tax, but permits a suit to recover tax after payment of the tax, as may be provided by the Legislature. Existing income tax law does, however, allow for prepayment judicial relief with respect to a taxpayer who claims to be a nonresident of California under specified circumstances.

This bill would allow prepayment judicial relief with respect to disputed transient occupancy taxes for a travel agent or intermediary, as described.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7283.52 is added to the Revenue and
2 Taxation Code, to read:

3 7283.52. (a) Notwithstanding Section 7283, a travel agent or
4 intermediary, after complying with procedures established by
5 ordinance or resolution of a local legislative body to appeal a notice
6 of deficiency assessment issued because of the imposition of the
7 tax authorized by this chapter, may, within 60 days after the action
8 of the local legislative body becomes final, commence an action
9 against the local legislative body, on the grounds set forth in its
10 appeal, to determine whether it is subject to the tax authorized by
11 this chapter during the period or periods set forth in the notice of
12 deficiency assessment. No tax authorized by this chapter shall be
13 collected from the travel agent or intermediary until 60 days after
14 the action of the local legislative body becomes final and, if the
15 travel agent or intermediary commences an action pursuant to this
16 section, during the pendency of the action.

17 (b) For purposes of this section:

18 (1) "Local legislative body" means the legislative body of the
19 city, county, or city and county, that imposed the tax authorized
20 by this chapter.

21 (2) "Travel agent or intermediary" includes, but is not limited
22 to, a business or person that arranges transportation or
23 accommodation through direct contact or contact over the Internet.

24 SEC. 2. The Legislature finds and declares that the provisions
25 of this act fulfill a statewide purpose and must apply to all
26 jurisdictions within the state to ensure consistency in the
27 administration, collection, and challenges of taxes, imposed by
28 either the state or local government, within the state.

29 SEC. 3. This act addresses the fiscal emergency declared by
30 the Governor by proclamation on December 19, 2008, pursuant

1 to subdivision (f) of Section 10 of Article IV of the California
2 Constitution.

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